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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
)

Implementation of the)
Pay Telephone Reclassification)
and Compensation Provisions of)
Telecommunications Act of 1996)
)
)

CC Docket No. 96-128

To: The Commission

**REPLY TO
OPPOSITION TO
PETITION FOR RECONSIDERATION**

Source One Wireless II, L.L.C. ("Source One"), submits this its Reply to the RBOC/GTE/SNET Payphone Coalition's ("Coalition's") Opposition to Petitions for Reconsideration filed with the Federal Communications Commission ("Commission" or "FCC") on January 7, 1998 in the above-referenced proceeding.

BACKGROUND

Source One argued in its Petition for Reconsideration, filed with the Commission on December 1, 1997, that the carrier pays method of compensation is cumbersome; and more importantly, "there is clear evidence that the IXCs cannot or will not employ the technologies discussed by the Commission as necessary for a carrier pay system and thus the basis for a carrier pay system may be undermined." It further went on to state that the costs of local coin calls are different from the costs of 800 subscriber and access code calls and that the local coin calls costs are higher. On that basis, Source One asked that the Commission adopt for those persons utilizing a payphone to reach CMRS subscribers

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through an 800 number a plan to pay the payphone provider by dropping coins in the box at the time the call is initiated.

The Coalition filed an Opposition to Petitions for Reconsideration, stating among other things, that the United States Court of Appeals for the District of Columbia Circuit, in Illinois Pub. Telecom., 117 F.3d 555, 566-67 (D.C. Cir. 1997), *Pet'n for Cert.* filed No. 97-1072 (Dec. 29, 1997) had rejected the calling party pays approach to compensation.

DISCUSSION

Due to Present Circumstances, The Argument for Calling Party Pays is Not Foreclosed

In its Opposition, the Coalition states that the Source One arguments and suggested alternatives are "dead in the water" due to Illinois Pub. Telecom., Supra. However, the Court in Illinois Pub. Telecom. had been misled in its belief that carriers could block calls from particular payphones. During and immediately after the Court review, the United States Telephone Association informed the Commission that the LECs would have difficulty with implementation of coding digit obligations. See Ex Parte Notices of June 19, 1997 and July 28, 1997. In late September, 1997, a Petition for Waiver was filed by the United States Telephone Association that admitted that "per-called tracking and payphone coding... issues cannot be resolved before the October 7 implementation date." Thus, on October 7, 1997, two days before payphone provider compensation became effective, the Commission waived until March 9, 1998, the requirement that LECs provide coding digits to PSPs and that PSPs provide coding digits from their payphones to carriers. See Order, DA 97-2162 (Com. Car. Bur., released October 7, 1997). Nevertheless, carriers were required to begin payments to PSPs, despite the fact that code provision was a condition of receiving per-call compensation from IXC's for toll free and access code calls. Second Report and Order, CC Docket No. 96-128, FCC 97-371, released October 9, 1997 at paragraph 57.

Because the Commission has granted the waiver of the requirements that LECs provide coding digits to PSPs and that PSPs transmit coding digits to identify it as a payphone, the IXC's cannot identify payphones. Therefore, paging companies cannot block calls because they do not have the information that was required by the Commission to be implemented. As such, the Commission's compensation scheme which the Court affirmed is not yet in place.

The Illinois Pub. Telecom. Court was unaware that the LECs could not provide the data, that Commission's scheme could not work and would be postponed until at least March 1998, absent another last minute waiver request by the LECs. That the Coalition can blatantly state that "there is simply no reason for the Commission to reconsider the merits of its decision when it has been explicitly upheld once already," is simply outrageous, given the facts and circumstances brought about by the waiver request of the United States Telephone Association on September 30, 1997.

**The Commission Should Adopt
Calling Party Pays Compensation**

If the Commission were to adopt the Calling Party Pays approach, there would be no need to be concerned about call blocking because the customer would make the decision at the payphone rather than having the decision forced on him or her by a complex pay back method which could result in a charge months later either to the payphone user or CMRS subscriber.

Now, because of the FCC waiver, paging companies generally will not receive coding digits and thus, cannot block payphone calls because the call blocking method used by IXC's requires that each call be identified with digits. But further, many payphones do not transmit information identifier numbers but merely identify the lines as payphones. In those cases, for paging companies that want to block calls from these phones on a non-selective basis, all toll restricted lines are affected and will continue to be, after the waiver lapse. Consequently, access to toll free number subscribers is greatly

reduced. Additionally, as Metrocall points out in its Comments in support of Petitions for Reconsideration, as the nation's supply of 800 numbers dwindled in the very recent past, the FCC's Wireless Telecommunications Bureau ("Bureau") recommended that paging carriers employ "PIN code" 1-800 service, rather than issuing individual 800 numbers to each paging customer and as such, many customers share one 800 number. Therefore, with PIN codes, it is impossible to block and/or track payphone calls to individual paging customers because they are all sharing one phone number. Even after the waiver has lapsed, and presumably all LECs and PSPs have installed the codes necessary to block and track payphone calls, PIN code customers will never be able to "block" incoming payphone calls. Aside from the inequitable circumstances that exist presently for call blocking from payphones, there are additional circumstances that will never allow call blocking. Accordingly, the FCC must reconsider its rules since "blocking" simply will not work for these customers.

In granting the Waiver Order, the Bureau stated that it would not "significantly harm any parties." Waiver Order at ¶13. Claiming that the potential harm in not paying the PSPs would be greater than the "potential harm to IXC's from the inability to block certain payphone calls," the Bureau required the IXC's to pay compensation for calls without the ability to block those calls. However, the Commission did not consider that there were other parties affected by this waiver grant. It is now obvious that paging companies and their subscribers; dispatchers and their customers; trucking companies and their drivers; and hot line users, among others, were harmed by that decision also. This harm would be alleviated if the Commission would reconsider the decision regarding blocking and allow the payphone consumer to elect to do its own blocking by either paying up front for its 1-800 payphone calls or electing not to use a payphone. The decision would be left to the marketplace, where it belongs, and all parties would have the same set of rules. In the alternative, the Commission should grant a blanket waiver to those affected by the inability to block calls from payphones until call blocking is

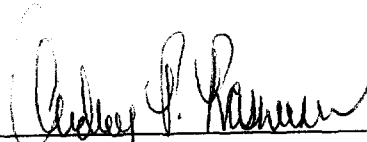
available, retroactive to October 9, 1997. See, e.g., Request for Waiver filed on December 15, 1997 by AirTouch Paging, "Pleading Cycle Established for Petition to Waive Payphone Per-call Compensation Obligations," DA 97-2735, released December 31, 1997.

CONCLUSION

For all of the reasons stated above, Source One respectfully requests that the Commission reconsider its carrier pays structure for PSP compensation and adopt a calling party-pays mechanism.

Respectfully Submitted,

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Dated: January 16, 1998

CERTIFICATE OF SERVICE

I, Gladys L. Nichols, do hereby certify that on this 16th day of January 1998, the foregoing **REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION** was served to the following persons by first-class mail, postage prepaid:

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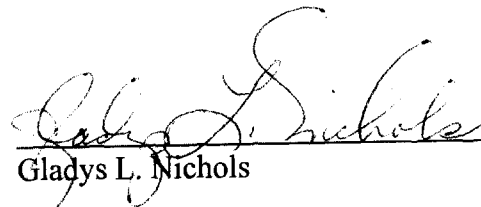
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